

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 11-400f.(7)

Specific Purpose:

This section is being amended to include the annual financial audit definition within the fiscal audit definition.

Factual Basis:

This amendment is necessary for clarity and consistency with Welfare and Institutions Code Section 11466.2 for the recovery of sustained financial audit overpayments; to ensure that California meets the federal audit standard for the Foster Care (FC) program as required under Office of Management and Budget (OMB) Circular A-133; and to ensure that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-400m.(4)

Specific Purpose:

This section is being adopted to provide a definition for the term “Management Decision” which is a process for evaluating financial audit reports as specified in OMB Circular A-133, Subsection .405.

Factual Basis:

This section is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-400r.(3)

Specific Purpose:

This section is being amended for clarity and consistency with Welfare and Institutions Code Sections 11466.22 and 11466.31 and to ensure compliance with OMB Circular A-133 disallowed cost recoupment requirements.

Factual Basis:

The amendment to this section is necessary for the efficient collection and processing of sustained overpayments from group home providers, which includes overpayments identified in the fiscal audit. As prescribed in Welfare and Institutions Code Section 11466.22(e), collection of sustained overpayments shall include procedures using several methodologies, one of which is a decrease in the AFDC-FC payment received by a group home provider without a Rate Classification Level (RCL) reduction. In addition, Welfare and Institutions Code Section 11466.31 provides for implementation of involuntary offset collection procedures to collect sustained overpayments. Department regulations currently provide for an RCL reduction, which is in conflict with the Welfare and Institution Code. This amendment corrects the conflict in the California Department of Social Services (CDSS) regulations. This section also applies to foster family agencies by reference as specified in Manual of Policies and Procedures (MPP) Section 11-403(j).

Section 11-400r.(4)

Specific Purpose:

This section is being adopted for clarity of Department regulations; consistency with Welfare and Institutions Code Section 11466.2; and provides an accurate definition for “RCL Reduction”.

Factual Basis:

This section is necessary to describe an RCL reduction including identifying the circumstances under which a reduction may occur. This section is also necessary to differentiate an RCL reduction from an RCL rate payment offset.

Sections 11-400r.(5) through (8)

Specific Purpose/Factual Basis:

These sections are renumbered for clarity and consistency.

Section 11-402.636

Specific Purpose:

This section is being adopted to clarify that the determination of unallowable costs through a management decision for fiscal audits, when a group home provider or foster family agency has expended AFDC-FC funds on an unallowable cost, is an overpayment. This section applies to foster family agencies by reference as specified in MPP Section 11-403(j).

Factual Basis:

This section is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 for purposes of overpayment recovery and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-402.636(a)

Specific Purpose:

This section is being adopted to allow the Department to recover the unallowable costs resulting from a fiscal audit, unless the group home provider has also incurred a program audit overpayment during the same time period. This section applies to foster family agencies by reference as specified in MPP Section 11-403(j). This section also prevents duplication of overpayment recovery. If this situation occurs, the Department shall recover the greater of the amounts of either the fiscal audit unallowable costs or the program audit overpayment.

Factual Basis:

This section is necessary to ensure that a group home provider is not required to repay both an overpayment arising from a program audit and an overpayment arising from a financial audit where those overpayments were incurred over the same time period. This section is also necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-402.664(d)

Specific Purpose:

This section is being amended for clarity and consistency with Welfare and Institutions Code Sections 11466.22 and 11466.31.

Factual Basis:

This amendment is necessary to ensure efficient collection and processing of sustained overpayments, including overpayments arising from a financial audit. As prescribed in Welfare and Institutions Code Section 11466.22(e), collection of sustained overpayments shall include procedures using several methodologies, one of which is a rate decrease without an RCL reduction. This section also applies to foster family agencies by reference as specified in MPP Section 11-403(j). In addition, Welfare and Institutions Code Section 11466.31 provides for implementation of involuntary offset collection procedures to collect sustained overpayments. Department regulations currently provide

for an RCL reduction, which is in conflict with the Welfare and Institutions Code. This amendment corrects the conflict in the CDSS regulations.

Section 11-402.664(e)

Specific Purpose:

This section is being amended for clarity and consistency with Welfare and Institutions Codes Section 11466.22 and 11466.31.

Factual Basis:

This amendment is necessary for consistency in the implementation of involuntary offset collection procedures to collect sustained overpayments. Department regulations currently provide for an RCL reduction, which is in conflict with the Welfare and Institutions Code. This amendment corrects the conflict in the CDSS regulations whereby the Department will now issue a rate letter indicating the amount of the offset instead of RCL reduction.

Section 11-402.665(a)

Specific Purpose:

This section is being amended for clarity and consistency with Welfare and Institutions Sections 11466.22 and 11466.31.

Factual Basis:

This amendment is necessary for the efficient collection and processing of sustained overpayments, including overpayments arising from a financial audit. As prescribed in Welfare and Institutions Code Section 11466.22(e), collection of sustained overpayments shall include procedures using several methodologies, one of which is a rate decrease without an RCL reduction. This section also applies to foster family agencies by reference as specified in MPP Section 11-403(j). In addition, Welfare and Institutions Code Section 11466.31 provides for implementation of involuntary offset collection procedures to collect sustained overpayments. Department regulations currently provide for an RCL reduction, which is in conflict with the Welfare and Institutions Code. This amendment corrects the conflict in the CDSS regulations.

Section 11-402.82

Specific Purpose:

This section is being amended to provide clarity of allowable costs for AFDC-FC reimbursement and adds additional citations to aid in the determination of reimbursable costs for group home programs.

Factual Basis:

This amendment is necessary to ensure that all costs are actual allowable and reasonable; that California meets the federal audit standard for the FC program as required under OMB Circular A-133; and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-403(c)(1)

Specific Purpose:

This section is being amended to provide clarity of actual allowable costs for AFDC-FC reimbursement and adds additional citations to aid in the determination of reimbursable costs for foster family agencies.

Factual Basis:

This amendment is necessary to ensure that all costs are actual allowable and reasonable; that California meets the federal audit standard for the FC program as required under OMB Circular A-133; and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-403(f)(1)(D)

Specific Purpose:

This section is being amended to provide clarity on the complete rate request submission process.

Factual Basis:

This amendment is necessary as a technical clean-up to specify new requirements in the regulations affecting the acceptance of an untimely complete rate request.

Section 11-403(f)(2)(B)3.

Specific Purpose:

This section is being amended to provide clarity on the effective date of an annual rate for a late complete rate request.

Factual Basis:

This amendment is necessary to clarify the effective date of a rate that is late within the specified time period or is being reestablished.

Section 11-403(f)(3)

Specific Purpose:

This section is being adopted to specify the requirements for reestablishing a rate after the untimely submission of a complete rate request.

Factual Basis:

This adoption is necessary to establish a process for reestablishing a rate and imposing a penalty for a foster family agency program that did not submit a complete rate request timely. There is no current regulatory process for the Department to reestablish the rate for a foster family agency that fails to timely comply with the annual complete rate request requirements, but complies with the requirements at a later time. Under current rules, the Department is required to discontinue the rate for the foster family agency that fails to submit a complete rate request, and to not establish a rate until the next annual rate application cycle occurs. The Department believes the current process poses an unfair punitive action on such providers. The penalty created by this regulatory amendment would directly link the rate request application information with the setting of the rate and can be fairly and equitably applied to all providers with late complete rate requests. The process was selected because it is consistent with the reinstatement process afforded group homes in accordance with existing regulations.

Section 11-403(j)(1)

Specific Purpose:

This section is being amended to correct a reference citation.

Factual Basis:

This amendment is necessary for accuracy in the regulations to eliminate reference to obsolete regulatory citations.

Section 11-405.11

Specific Purpose:

This section is being amended to include fiscal audits of foster family agencies in addition to group homes.

Factual Basis:

This amendment is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.112

Specific Purpose:

This section is being amended to require that foster family agencies, in addition to group home programs, must maintain documentation, as appropriate, to support AFDC-FC program expenditures for a period of not less than five years.

Factual Basis:

This amendment is necessary to ensure that foster family agencies are subject to the records retention requirements that are consistent with the federal audit standard for the FC program as required under OMB Circular A-133. This is necessary to ensure that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.13

Specific Purpose:

This section is being amended to include other allowable cost categories identified in OMB Circular A-122, Cost Principles for Non-Profit Organizations, Attachment B.

Factual Basis:

This amendment is necessary to ensure that group homes and foster family agencies are referred to the federally-required cost categories. This amendment is also necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.136

Specific Purpose:

This section is being amended to include other group home and foster family agency payroll and fringe benefit costs not otherwise identified as allowable costs for reimbursement.

Factual Basis:

This amendment is necessary to specify that payroll and fringe benefit cost records shall be maintained. This amendment is also necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.21

Specific Purpose:

This section is being amended to exclude the reference that acceptance of financial audits is tied only to ratesetting purposes.

Factual Basis:

This amendment is necessary to provide clarity and consistency for group home and foster family agency corporations that financial audits are not accepted for ratesetting purposes only. Financial audits may also be accepted in accordance with OMB Circular A-133 requirements, which do not speak to ratesetting purposes. This amendment is also necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.213

Specific Purpose:

This section is being amended to provide the specific title of the audit standards to be used by group home and foster family agency corporations for the performance of financial audits.

Factual Basis:

This amendment is necessary to provide clarity and consistency for group home and foster family agency corporations by identifying that financial audits are to be conducted according to the Government Auditing Standards issued by the Comptroller General of the United States (commonly known as the Generally Accepted Government Auditing Standards (GAGAS) audit).

Section 11-405.213(a)

Specific Purpose:

This section is being amended to inform group home and foster family agency corporations that all audits shall be conducted according to Government Auditing Standards issued by the Comptroller General of the United States, often referred to as generally accepted government auditing standards (GAGAS) and financial accounting standards applicable to entities organized and operated on a nonprofit basis.

Factual Basis:

This amendment is necessary to ensure that group home and foster family agency corporations continue to conduct audits in accordance with the Government Auditing Standards issued by the Comptroller General of the United States (GAGAS).

Section 11-405.213(b)

Specific Purpose:

This section is being amended to provide the federal funding threshold which determines whether an OMB Circular A-133 audit is required for group home and foster family agency corporations.

Factual Basis:

This amendment is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.213(b)(1)

Specific Purpose:

This section is being adopted to provide OMB Circular A-133 audit report due dates and submission requirements.

Factual Basis:

This section is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.213(b)(2)

Specific Purpose:

This section is being adopted to provide instruction to group home and foster family agencies on where report packages are to be submitted within the Department.

Factual Basis:

This section is necessary to inform providers that a copy of the financial audit is to be submitted to the Foster Care Audits Branch, and is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.213(b)(3)

Specific Purpose:

This section is being adopted to provide instruction to group home and foster family agencies to send one copy of the audit report with the annual rate application package.

Factual Basis:

This section is necessary to inform providers that a copy of the financial audit is to be submitted with the annual rate application. This procedure is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.215

Specific Purpose:

This section is being adopted to provide the additional audit requirement and guidance for incorporating audit compliance testing for all GAGAS audits, as well as all OMB Circular A-133 audits, according to the OMB Circular A-133 Compliance Supplement.

Factual Basis:

This section is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.216

Specific Purpose/Factual Basis:

This section is renumbered from Section 11-405.212 for clarity and consistency.

Section 11-405.217

Specific Purpose:

This section is being amended to provide the specific title of the audit standards to be used by group home and foster family agency corporations for financial audits. Also incorporated is the new regulatory citation for the federal OMB Circular A-133 audit requirement. The section is also renumbered from Section 11-405.216 for clarity and consistency.

Factual Basis:

This section, as amended, is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized. The section is also renumbered for clarity and consistency.

Sections 11-405.218 and .219

Specific Purpose:

These sections are being amended to correct reference citations and to renumber from Sections 11-405.217 and .218 for clarity and consistency.

Factual Basis:

These amendments are necessary for accuracy, clarity and consistency in the regulations.

Section 11-405.22 and Handbook

Specific Purpose:

These sections are being adopted to provide a partial listing of group home and foster family agency corporation and Department responsibilities for ensuring that the requirements of the OMB Circular A-133 audit are met. Specific responsibilities are delineated under OMB Circular A-133.

Factual Basis:

These sections are necessary to implement a requirement that group home and foster family agencies meet the auditee responsibilities set forth in OMB Circular A-133. This section also ensures that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.221 (Handbook)

Specific Purpose:

This section is being adopted to provide group homes and foster family agencies with a partial listing of group home and foster family agency corporation responsibilities within OMB Circular A-133, Subpart C, Section .300.

Factual Basis:

This section is necessary to ensure that group homes and foster family agencies are aware of their responsibilities under OMB Circular A-133. This information is necessary to ensure that the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.221(a) (Handbook)

Specific Purpose:

This section is being adopted to specifically identify the group home/foster family agency responsibility for maintaining internal control over federal funds and refers corporations to OMB Circular A-133, Subpart C, Section .300, for specific requirements.

Factual Basis:

This section is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.221(b) (Handbook)

Specific Purpose:

This section is being adopted to specifically identify the group home/foster family agency responsibility for preparing a schedule of expenditures of federal funds and refers corporations to OMB Circular A-133, Subpart C, Section .310, for specific requirements.

Factual Basis:

This section is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.221(c) (Handbook)

Specific Purpose:

This section is being adopted to specifically identify the group home/foster family agency responsibility for preparing a financial statement for the most recent fiscal year and refers corporations to OMB Circular A-133, Subpart C, Section .310, for specific requirements.

Factual Basis:

This section is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.221(d) (Handbook)

Specific Purpose:

This section is being adopted to specifically identify the group home/foster family agency responsibility for follow-up and corrective action on all audit findings and refers corporations to OMB Circular A-133, Subpart C, Section .315, for specific requirements.

Factual Basis:

This section is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.221(e) (Handbook)

Specific Purpose:

This section is being adopted to specifically identify the group home/foster family agency responsibility for compliance with audit data collection, report submission, and reporting package requirements, and refers corporations to OMB Circular A-133, Subpart C, Section .320, for specific requirements.

Factual Basis:

This section is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.222 (Handbook)

Specific Purpose:

This section is being adopted to provide group homes and foster family agencies with a partial listing of Department responsibilities within OMB Circular A-133, Subpart D, Section .400.

Factual Basis:

This section is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.222(a) (Handbook)

Specific Purpose:

This section is being adopted to specifically identify the Department's responsibility for issuing management decisions on audit findings and refers corporations to OMB Circular A-133, Subpart D, Section .405, for information.

Factual Basis:

This section is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.222(b) (Handbook)

Specific Purpose:

This section is being adopted to specifically identify the Department's responsibility for the establishment of an appeal process for management decisions and refers corporations to OMB Circular A-133, Subpart D, Section .405, for information.

Factual Basis:

This section is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.23

Specific Purpose/Factual Basis:

This section is being renumbered from Section 11-405.22 for clarity and consistency.

Section 11-405.24

Specific Purpose:

This section is being adopted to provide an appeal process for fiscal audit management decisions. The process involves a request for formal hearing and is available to all group

home and foster family agency corporations who receive a Department management decision on audit findings resulting in disallowed costs.

Factual Basis:

This section is necessary to establish formal hearing procedures for appeals of management decisions on audit findings. It also ensures that California meets the federal audit standard for the FC program as required under OMB Circular A-133, that Title IV-E federal financial participation in the program is not jeopardized, and that all providers receive due process.

Section 11-405.241

Specific Purpose:

This section is being adopted to provide a 30-day timeframe for group home and foster family agency corporations to submit a request for formal hearing. If the request for formal hearing is not received within the specified time period, the Department's management decision shall be final.

Factual Basis:

This section is necessary to establish a process for appeals of the Department's management decisions on audit findings, and ensures a timely response by group home and foster family agency corporations on management decisions. The section is also necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.242

Specific Purpose:

This section is being adopted to require that group home and foster family agency corporations submit the request for formal hearing via personal delivery or certified mail to both the office of hearings specified in the audit report and the Department.

Factual Basis:

This section is necessary to establish a formal hearing process for appeals of the Department's management decisions on audit findings, and ensures the group home and foster family agency corporation that the request for hearing was received by the appropriate hearing entities by the regulatory timeframe. This section is also necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.243

Specific Purpose:

This section is being adopted to inform group home and foster family agency corporations that the Department will not accept any documents relevant to the management decision after the date the corporation has filed the request for hearing.

Factual Basis:

This section is necessary to establish a formal hearing process for appeals of the Department's management decisions on audit findings, and is necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.244

Specific Purpose:

This section is being adopted to inform group home and foster family agency corporations that the formal hearing on the management decision will be conducted within 60 days of receipt of the request for hearing.

Factual Basis:

This section is necessary to establish a formal hearing process for appeals of the Department's management decisions on audit findings and ensures group home and foster family agency corporations that a hearing will be conducted promptly. It is also necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.245

Specific Purpose:

This section is being adopted to provide that the standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the Department to support its management decision.

Factual Basis:

This section is necessary to establish a formal hearing process for appeals of the Department's management decisions on audit findings and is necessary to ensure that

California meets the federal audit standard for the FC program as required under OMB Circular A-133. It is also necessary to ensure that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.246

Specific Purpose:

This section is being adopted to identify what documentation should be contained in the administrative record.

Factual Basis:

This section is necessary to establish a formal hearing process for appeals of the Department's management decisions on audit findings, and ensures that an appropriate legal administrative record is maintained. This section is also necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.247

Specific Purpose:

This section is being adopted to provide and inform group home and foster family agency corporations of the regulations by which the formal hearing shall be conducted.

Factual Basis:

This section is necessary to establish a formal hearing process for appeals of the Department's management decisions on audit findings, and ensures that the hearing is conducted according to established procedures. The section is also necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.248

Specific Purpose:

This section is being adopted to provide and inform group home and foster family agency corporations of the specified timeframe for issuance of the proposed decision by the hearing officer.

Factual Basis:

This section is necessary to establish a formal hearing process for appeals of the Department's management decisions on audit findings and ensures a prompt decision within 45 days of the close of the hearing record. This section is also necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

Section 11-405.249

Specific Purpose:

This section is being adopted to provide and inform group home and foster family agency corporations of the timeframe for adoption, rejection, or modification of the proposed decision by the Department Director.

Factual Basis:

This section is necessary to establish a formal hearing process for appeals of the Department's management decisions on audit findings and ensures that the proposed decision is adopted promptly within 45 days of the issuance of the decision. This section also allows additional time for the Department Director to reject or adopt a modified proposed decision within 100 days. If the Director takes no action on the proposed decision within the prescribed timeframes, the proposed decision shall take effect by operation of law. This section is also necessary to ensure that California meets the federal audit standard for the FC program as required under OMB Circular A-133 and that Title IV-E federal financial participation in the program is not jeopardized.

b) Identification of Documents Upon Which Department is Relying

Public Laws 98-502 and 104-156

Department of Health and Human Services, Administration for Children & Families letter dated April 19, 2001.

Office of Management and Budget (OMB) Circular A-122, Cost Principles for Non-Profit Organizations

OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations

Government Auditing Standards of the Comptroller General of the United States (Yellow Book)

c) Local Mandate Statement

These regulations do not impose a mandate on local agencies or school districts. There are no state mandated local costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

d) Statement of Alternatives Considered

CDSS has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.